

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SUSAN CHAMBERLAN, BRIAN CHAMPINE,
and HENRY FOK, on behalf of
themselves and all others similarly
situated, and on behalf of the
general public,

Plaintiffs,

v.

FORD MOTOR COMPANY, and DOES 1
through 100, inclusive,

Defendants.

No. C 03-2628 CW
ORDER GRANTING
PLAINTIFFS'
MOTION FOR CLASS
CERTIFICATION

Plaintiffs Susan Chamberlan and Henry Fok move for class certification (Docket No. 60). Defendant Ford Motor Company opposes the request. The matter was submitted on the papers. Having considered all of the papers filed by the parties, the Court GRANTS Plaintiffs' motion for class certification.

BACKGROUND

Plaintiffs Susan Chamberlan and Henry Fok allege that Defendant Ford Motor Company manufactured, sold, and distributed automobiles containing defective engine intake manifolds. The intake manifolds at issue are made of plastic, in contrast to the aluminum manifolds in use in other Ford automobiles. These plastic intake manifolds, and particularly the plastic water crossover component of the plastic intake manifolds, are more likely to crack than traditional aluminum intake manifolds. According to Plaintiffs, Ford became aware of the problems with

1 the plastic intake manifolds as early as late 1995. Ford
2 redesigned the plastic intake manifold several times in attempts
3 to address the cracking problem, but was not able to do so until
4 2002 when it replaced the plastic water crossover with an
5 aluminum one. According to Plaintiffs, Ford concealed this
6 information regarding the defective nature of the plastic intake
7 manifold from consumers. Plaintiffs allege that Ford is liable
8 pursuant to the California Consumers Legal Remedies Act (CLRA),
9 Cal. Civ. Code § 1750 et seq., for its failure to disclose the
10 defective nature of the plastic intake manifolds.¹

11 Plaintiffs now seek certification to represent a class
12 defined as:

13 All consumers residing in California who currently own,
14 or paid to repair or replace the plastic intake
15 manifold in any of the following cars: 1996-2001 model
16 year Mercury Grand Marquis, 1998-2001 model year Ford
Mustangs, 2002 model year Ford Explorers, 1996-2001
model year Ford Crown Victorias, or 1996-2001 Lincoln
Town Cars.

17 "Consumer" means an individual who bought her car for
18 personal, family, or household purposes.

19 Excluded from the Class are (1) anyone to whom Ford has
20 provided an extended warranty for her intake manifold;
21 (2) the judge to whom this case is assigned and any
member of the judge's immediate family; and (3) anyone
who suffered personal injury related to Ford's plastic
water crossover.

22 ¹ The CLRA makes illegal "unfair methods of competition and
23 unfair or deceptive acts or practices undertaken by any person
24 in a transaction intended to result or which results in the sale
or lease of goods or services to any consumer." Cal. Civ. Code
25 § 1770(a). The CLRA proscribes "[r]epresenting that goods or
services have . . . characteristics, ingredients, uses,
26 benefits, or qualities which they do not have," Cal. Civ. Code §
1770(a)(5), and "[r]epresenting that goods or services are of a
27 particular standard, quality or grade, . . . if they are of
another," Cal. Civ. Code § 1770(a)(7).

1 Ford opposes Plaintiffs' motion for class certification.

2 DISCUSSION

3 A plaintiff seeking to represent a class must satisfy the
4 threshold requirements of Federal Rule of Civil Procedure 23(a)
5 as well as the requirements for certification under one of the
6 subsections of Federal Rule of Civil Procedure 23(b).

7 I. Rule 23(a)

8 Rule 23(a) permits district courts to certify class action
9 lawsuits if: (1) the class is so numerous that joinder of all
10 class members is impracticable ; (2) there are questions of law
11 or fact common to the class; (3) the claims or defenses of the
12 representative parties are typical of the claims or defenses of
13 the class; and (4) the representative parties will fairly and
14 adequately protect the interests of the class. Fed. R. Civ. P.
15 23(a).

16 A. Numerosity

17 "The prerequisite of numerosity is discharged if 'the class
18 is so large that joinder of all members is impracticable.'" Hanlon v. Chrysler Corp., 150 F.3d 1011, 1019 (9th Cir. 1998)
19 (quoting Fed. R. Civ. P. 23(a)(1)). Given that the number of
20 California residents who purchased vehicles containing the
21 plastic intake manifolds likely numbers at least 150,000, this
22 requirement is satisfied.

24 B. Commonality

25 "A class has sufficient commonality 'if there are questions
26 of fact and law which are common to the class.'" Id. (quoting
27 Fed. R. Civ. P. 23(a)(2)). "All questions of fact and law need

1 not be common to satisfy this rule. The existence of shared
2 legal issues with divergent factual predicates is sufficient, as
3 is a common core of salient facts coupled with disparate legal
4 remedies within the class." Id. Here, the claims of all
5 members of the class "stem from the same source," id. at 1019-
6 20, namely, that Ford knew that there was a risk that the
7 plastic intake manifolds would crack prematurely, but concealed
8 that information from ordinary consumers. This is sufficient to
9 satisfy the commonality requirement of Rule 23(a)(2).

10 C. Typicality

11 "The typicality prerequisite of Rule 23(a) is fulfilled if
12 'the claims or defenses of the representative parties are
13 typical of the claims or defenses of the class.'" Id. at 1020
14 (quoting Fed. R. Civ. P. 23(a)(3)). "[R]epresentative claims
15 are 'typical' if they are reasonably co-extensive with those of
16 absent class members; they need not be substantially identical."
17 Id. Here, the typicality requirement is satisfied because the
18 named plaintiffs and the members of the proposed class "all have
19 claims arising from the [same] fraudulent scheme." In re:
20 Prudential Ins. Co. of Am. Sales Practices Litig., 148 F.3d 283,
21 311 (3rd Cir. 1998) (noting that "cases challenging the same
22 unlawful conduct which affects both the named plaintiffs and the
23 putative class usually satisfy the typicality requirement
24 irrespective of the varying fact patterns underlying the
25 individual claims").

26 D. Adequacy

27 "The final hurdle interposed by Rule 23(a) is that 'the
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1 representative parties will fairly and adequately protect the
2 interests of the class.'" Hanlon, 150 F.3d at 1020 (quoting
3 Fed. R. Civ. P. 23(a)(4)). "Resolution of two questions
4 determines legal adequacy: (1) do the named plaintiffs and their
5 counsel have any conflicts of interest with other class members
6 and (2) will the named plaintiffs and their counsel prosecute
7 the action vigorously on behalf of the class?" Id. Here, there
8 is no evidence that Plaintiffs or their counsel have any
9 conflicts of interest with other class members. Rather,
10 Plaintiffs share the same interest as absent class members in
11 that they have all allegedly been harmed by Ford's concealment
12 of the defective nature of the plastic intake manifolds.
13 Further, the record in this case to date demonstrates that named
14 Plaintiffs and their counsel will prosecute this action
15 vigorously on behalf of the class. Therefore, the adequacy
16 requirement is satisfied.

17 II. Rule 23(b)(3)

18 Having met the prerequisites of Federal Rule of Civil
19 Procedure 23(a) for class certification, named Plaintiffs are
20 entitled to proceed on a class basis if they meet the
21 requirements of one of the subsections of Federal Rule of Civil
22 Procedure 23(b). Here, named Plaintiffs seek to proceed under
23 Federal Rule of Civil Procedure 23(b)(3). "To qualify for
24 certification under this subsection, a class must satisfy two
25 conditions in addition to the Rule 23(a) prerequisites: common
26 questions must 'predominate over any questions affecting only
27 individual members,' and class resolution must be 'superior to
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1 other available methods for the fair and efficient adjudication
2 of claims.'" Id. at 1022 (quoting Fed. R. Civ. P. 23(b)(3)).

3 A. Predominance

4 "The Rule 23(b)(3) predominance inquiry tests whether
5 proposed classes are sufficiently cohesive to warrant
6 adjudication by representation." Amchem Prod., Inc. v. Windsor,
7 521 U.S. 591, 623 (1997). "When common questions present a
8 significant aspect of the case and they can be resolved for all
9 members of the class in a single adjudication, there is clear
10 justification for handling the dispute on a representative
11 rather than an individual basis." Hanlon, 150 F.3d at 1022
12 (internal quotation marks omitted). Here, common questions
13 include whether the design of the plastic intake manifold was
14 defective, whether Ford was aware of the alleged design defects,
15 whether Ford had a duty to disclose its knowledge, whether it
16 failed to do so, whether the facts that Ford allegedly failed to
17 disclose were material, and whether the alleged failure to
18 disclose violated the CLRA. Common questions thus predominate
19 over individual questions in this case.

20 B. Superiority

21 "Rule 23(b)(3) also requires that class resolution must be
22 'superior to other available methods for the fair and efficient
23 adjudication of the controversy.'" Id. at 1023 (quoting Fed. R.
24 Civ. P. 23(b)(3)). "The policy at the very core of the class
25 action mechanism is to overcome the problem that small
26 recoveries do not provide the incentive for any individual to
27 bring a solo action prosecuting his or her rights." Amchem, 521

1 U.S. at 617. Here, few potential class members could afford to
2 undertake individual litigation against Ford to recover the
3 relatively modest damages at issue. Therefore, in the absence
4 of a class action, few class members would have any meaningful
5 redress against Ford as a practical matter. A class action is
6 the superior method of resolving this controversy.

7 CONCLUSION

8 For the foregoing reasons, the Court GRANTS Plaintiffs'
9 motion for class certification (Docket No. 60).

10 IT IS SO ORDERED.

11
12 9/8/04

/s/ CLAUDIA WILKEN

13 Dated: _____

14 CLAUDIA WILKEN
United States District Judge